

Department of Social Services Division of Licensing Programs STANDARD OPERATING PROCEDURE	TITLE: CORRECTIVE ACTION NOTICES AND PLANS	PROCEDURE NUMBER SOP-305
		EFFECTIVE DATE: September 29, 2005
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305-1.0 PURPOSE

To establish within the Division of Licensing Programs (DOLP) a standardized system for effectively addressing non-compliance by licensees who have not responded adequately to violation notices but whose non-compliance has not risen to the level where it must be addressed through an adverse enforcement action.

305-2.0 SCOPE

This standard operating procedure applies to licensing administrators and licensing representatives involved in the monitoring of facilities/programs that have been identified as having systemic problems that cause widespread, repeated, or high-risk non-compliance.

305-3.0 DEFINITIONS

Adverse Enforcement: Imposition of sanctions or actions by the commissioner or the director of the Division for providers that violate laws and/or regulations in ways that negatively impact the health, safety, or welfare of children or adults in the care of facilities regulated by the Division of Licensing Programs (DOLP).

Corrective action plan: A written proposal, composed by a licensee in response to a corrective action notice from DOLP staff, in which the licensee identifies systemic roots of noncompliance with standards or statutes and develops a strategy for bringing a facility/program into compliance within an established period of time.

DOLPHIN (Division Of Licensing Programs Help and Information Network): The Division's data system that manages information about applicants and licensed providers and serves as a tool for the work of licensing staff.

Enforcement watch: A monitoring tool used by a licensing office to identify and document monitoring activities and actions taken on facilities/programs that have failed to maintain substantial compliance with licensing standards.

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Licensing representative: This usually refers to the staff delegated to provide ongoing regulatory oversight for a facility by the appropriate licensing office or unit. With proper designation by the licensing administrator or division management, however, staffs conducting such regulatory activities may be: staffs who perform similar functions for other facilities or licensing offices; a member of the division's central staff; or, a non-VDSS employee approved by the commissioner or division director.

Substantial compliance: When compliance clearly and obviously exists with most of the standards as a whole, while there may be noncompliance by the licensee with one or more standards that represent minimal risk.

Systemic deficiency: A violation(s) that demonstrates defects in the overall operation of a facility/program or one of its components.

Violation notice: A form generated by DOLPHIN following an on-site inspection when an applicant/licensee is found to be out of compliance with one or more standards or statutes. The form specifies the type of inspection/study, the code section for the violated standard(s) or statute(s), how the standard(s) or statute(s) was violated, and a description of action to be taken by the applicant/licensee to correct the violation and to prevent recurrence of the same or similar violations.

305-4.0 PROCEDURES

The Division of Licensing Programs (DOLP) shall use the corrective action notice and plan process as a method to bring licensees into full compliance with standards. The corrective action notice and plan shall be employed by licensing administrators and representatives when it is necessary for a licensee to do a more in-depth analysis of the facility/program's issues than would typically occur in the process of filling in the description of action to be taken portion of a violation notice.

305-4.1 Initiating the Corrective Action Notice and Plan Process:

1. The licensing representative shall recommend to the licensing administrator requiring a licensee to complete a corrective action plan when an inspection(s) indicates a:
 - a. Systemic deficiency;
 - b. Large number of violations;

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- c. Repeated violation(s) from a previous inspection(s); and/or
- d. Violation(s) that pose moderate to serious risk to those in care.

NOTE: A corrective action notice and plan may be used to address violations that pose extreme risk, but generally the licensing office should at least combine this with a request for an adverse enforcement action upon the licensee.

2. The licensing representative shall fill in the first portion of the Corrective Action Notice & Plan form (Appendix A), sign, and forward to the licensing administrator for review.
 - a. The notice shall advise the licensee of problem areas to be addressed in the corrective action plan.
 - b. Examples include:
 - Insufficient staffing;
 - Medication errors;
 - Sanitation issues;
 - Poor records management; and
 - Concerns about playground safety.
3. The licensing administrator, following discussion as needed with the licensing representative, shall approve and sign the notice or suggest another course of action to the licensing representative.
 - a. The licensing administrator shall gather any additional information about the facility/program from the licensing representative in order to make an informed assessment of risk.
 - b. The licensing administrator shall assess the overall risk to residents/participants (see SOP-303: Risk Assessment) in order to decide whether an adverse enforcement action should be pursued (see SOP-501: Adverse Enforcement Actions) in lieu of the corrective action notice and plan process.

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4. The licensing representative shall type in the “description of action to be taken” column of the violation notice (SOP-304: Violation Notices and Inspection Summaries), “The licensee is developing a corrective action plan.”
5. The licensing representative and licensing administrator shall schedule and conduct a conference to deliver the corrective action notice and plan to the licensee, at which he or she must also be present.
 - a. The licensing representative shall contact and schedule the conference with the licensee.
 - b. The licensing administrator shall conduct the conference, with input from the licensing representative, by:
 - Explaining the concerns outlined in the corrective action notice;
 - Outlining the expectations for the corrective action plan;
 - Establishing with the licensee a deadline for receipt of the completed corrective action plan;

NOTE: In most cases, a period of 10 calendar days is a sufficient amount of time for a licensee to complete and return a corrective action plan.

 - Indicating to the licensee that the corrective action plan must be implemented fully in order to avoid an adverse enforcement action against the facility/program; and
 - Answering any questions about the process from the licensee.
6. The licensing office shall consider initiating a request for an adverse enforcement action (SOP-501) if the licensee does not return a corrective action plan within the timeframe specified on the notice.

305-4.2 Processing a Corrective Action Plan:

1. The licensing representative and licensing administrator shall review the completed corrective action plan upon receipt from the licensee.

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2. The licensing representative shall contact the licensee and discuss making adjustments when the corrective action plan does not satisfactorily address the concerns listed in the notice.
 - a. The licensing representative shall discuss with the licensee necessary changes and additions to the corrective action plan.
 - b. The licensing representative shall request that the licensee send a copy of the adjusted corrective action plan to the licensing office within 3 business days.
 - c. The licensing representative shall consider initiating a request for an adverse enforcement action if the new corrective action plan is not received by the specified date.
3. The licensing representative shall monitor on future inspections to the facility/program the progress of the licensee in implementing the corrective action plan.
 - a. The licensing representative shall follow procedures in SOP-301 (Conducting an Inspection) and SOP-304 for evaluating and documenting the licensee's compliance with standards.
 - b. The licensing representative shall initiate a request for an adverse enforcement action if the licensee does not implement the corrective action plan by the specified date and/or does not achieve substantial compliance with standards.

305-4.3 Relation to Violation Notices, Enforcement Watch, and Adverse Enforcement

1. The licensing administrator and representative shall use the corrective action notice and plan process when any of the circumstances outlined in 4.1, section 1 above cannot be adequately addressed on the description of action to be taken section of the violation notice.

NOTE: The licensing representative shall write "see corrective action plan," in the action to be taken column of the violation notice (see SOP-304) when he or she intends to issue a corrective action notice requesting that the applicant/licensee complete a corrective action plan.

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2. The licensing administrator and representative shall consider placing any licensee on enforcement watch (see SOP-306: Enforcement Watch) who has been issued a corrective action notice and asked to complete a corrective action plan.
3. The licensing administrator and representative shall request an adverse enforcement action against any licensee whose violations indicate an adverse impact on the health, safety, or welfare of adults or children in care and that have risen beyond the level where they can be adequately addressed through a corrective action notice and plan.

NOTE: The licensing representative shall request an adverse enforcement action (see SOP-501) on a licensee who fails to come into compliance through the implementation of a corrective action plan.

305-4.4 Reporting Requirements

1. The licensing representative shall indicate in the comment field on the violation notice screen of DOLPHIN the date on which the corrective action plan is received by the licensing office.

NOTE: The licensing office shall maintain the original, signed corrective action notice and plan in the licensing record for the facility/program.

2. The licensing administrator and representative shall submit a copy of the corrective action notice and plan to the central office as supporting documentation with a request for an adverse enforcement action (see SOP-501), if such action has been initiated with the licensee.

305-5.0 AUTHORITY

Code of Virginia, Title 63.2-1706(-1708); 22 VAC 40-80-180

305-6.0 RESPONSIBILITY

The operations manager, licensing administrators, and licensing representatives shall be responsible for ensuring compliance with this standard operating procedure.

305-7.0 INTERPRETATION

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The director of the Division of Licensing Programs shall be responsible for interpreting or granting any exceptions to this standard operating procedure.

305-8.0 SUPERSEDES: First Issue; replaces relevant sections of OIM-6 (10/99).

305-9.0 EFFECTIVE DATE: September 29, 2005

305-10.0 REVIEW DATE: Two years from the effective date.

Reviewed and Approved by:

Carolynne H. Stevens, Director Date: September 23, 2005
Division of Licensing Programs

Appendix A

Name of Facility/Program _____

Due to the number, serious nature, and/or repetition of violations found at your facility, you are required to complete a Corrective Action Plan.

The corrective action plan must be completed and returned to the Licensing Inspector by / / **2005**.

Identification/description of problem area to be addressed:

_____	_____	_____ / _____ / _____
2005		
Signature of Licensing Representative	Signature of Licensing Administrator	Date

For each problem identified, the corrective action plan (below) should address: 1) The steps (tools and methods) that will be taken to prevent violation(s) in the above area(s) from occurring in the future. 2) Identify the individual(s) and/or staff position(s) that will be responsible for implementing the preventative measures and the date the actions will be initiated and completed. 3) Identify which individual(s) and/or staff positions will monitor the overall corrective action plan.

(Attach additional pages as needed.)

_____	_____ / _____ / 2005
Signature of Facility/Program Representative	Date